

(916) 323-7712

February 6, 1984

Mr. G :

Dear Mr. G :

This is in response to your letter of November 28, 1983, requesting our opinion with respect to the acquisition of real property for investment purposes by a public retirement system. Specifically, you ask if a property owner who was displaced by virtue of an acquisition by a public retirement system could qualify for property tax relief under Section 2(d) of Article XIII A of the California Constitution and Section 68 of the Revenue and Taxation Code.

Section 2(d) of Article XIII A provides that "change in ownership" does "not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from the property replaced by eminent domain proceeding, by acquisition by a public entity ...." (Emphasis added.) Neither Section 68 of the Revenue and Taxation Code, nor Board Rule No. 462.5, which implemented the constitutional provision, place any limitation on the types of acquisitions made by a public entity. Thus, regardless of whether the property acquired by a public entity is used for proprietary or governmental purposes, comparable replacement property qualifies for relief, so long as all other conditions are met.

In the Board's letter to County Assessors No. 83/03, Real Property Acquired by Public Retirement Systems, dated January 6, 1983, we advised you that real property acquired by a public retirement system should be treated the same as real property acquired by any other government entity. Although the letter addressed a different issue, we believe that the conclusion that an acquisition of real property by a public retirement system is an acquisition by a public entity also extends to your question.

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Based on the foregoing, it is our opinion that the comparable replacement of property acquired by a public retirement system is eligible for the relief granted by Section 2(d) of Article XIII A of the California Constitution and Section 68 of the Revenue and Taxation Code..

Very truly yours,

Margaret S. Shedd  
Tax Counsel

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